

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4

5 In the Matter of

6

7 MICHAEL DIVIESTI - PUBLIC HEARING

8

9 6-8 DiViesti Road
10 Marlboro, New York 12542
11 SBL #108.4-7-14

-----X

12

13 DATE: May 9, 2024

14

15 TIME: 6:00 P.M.

16

17 PLACE: Town of Marlborough
18 Town Hall
19 21 Milton Turnpike
20 Milton, New York 12547

21

22 BOARD MEMBERS:

23

24 LENNY CONN, CHAIRMAN
25 JEFF MEKEEL
GEORGE SALINOVICH
ANDREW NIKOLA
LARRY BARTOLOTTI

26

27 ALSO PRESENT:

28

29 JEN FLYNN, Zoning Board
30 Secretary

31

32 JONATHAN MILLEN, Surveyor
33 MICHAEL DIVIESTI, Applicant

34

35 -----X

36

37 LISA MARIE ROSSO
38 140 Mahoney Road
39 Milton, New York 12547
40 (845) 674-3937

41

42 LISA MARIE ROSSO - (845) 674-3937

1 MICHAEL DIVIESTI- PUBLIC HEARING

2 CHAIRMAN CONN: Let's stand for
3 the pledge.

4 (Pledge of Allegiance.)

5 CHAIRMAN CONN: Did we check the
6 minutes from the last meeting; any
7 questions from the minutes from the
8 last meeting?

9 MR. MEKEEL: No.

10 MR. BARTOLOTTI: No.

11 MR. NIKOLA: No.

12 MR. SALINOVICH: No.

13 CHAIRMAN CONN: Somebody make a
14 motion to approve?

15 MR. BARTOLOTTI: I make a motion
16 to accept the April minutes of the
17 meeting.

18 CHAIRMAN CONN: Second?

19 MR. MEKEEL: I will second.

20 CHAIRMAN CONN: All in favor?

21 MR. MEKEEL: Aye.

22 MR. BARTOLOTTI: Aye.

23 MR. NIKOLA: Aye.

24 MR. SALINOVICH: Aye.

25 CHAIRMAN CONN: Good, so moved.

1 MICHAEL DIVIESTI- PUBLIC HEARING

2 First, we have a public hearing for
3 Michael DiViesti, subdivision.

4 Everybody aware of what we need to do?
5 Did we get the green cards, the
6 certified cards?

7 MR. MILLEN: Here you go
8 handing).

9 MS. FLYNN: How many came out and
10 how many came back?

11 CHAIRMAN CONN: Somebody want to
12 read the legal notice?

13 MR. NIKOLA: Town of Marlborough
14 Zoning Board of Appeals legal notice.
15 Please take notice that a public hearing
16 will be held by the Town of Marlborough
17 Zoning Board of Appeals, further known
18 as the ZBA at the town hall, 21 Milton
19 Turnpike, Milton, New York, on May 9th,
20 2024, at 6:00 P.M. or soon thereafter
21 as may be heard. Owner applicant,
22 Michael DiViesti, 6-8 DiViesti Road,
23 Marlboro, New York 12542, is seeking
24 relief from Town of Marlborough Code
25 155, Attachment 2, Schedule 1, by way

1 MICHAEL DIVIESTI- PUBLIC HEARING
2 of a 13.4-feet front yard setback area
3 variance on Lot A and 6.3-foot variance
4 on Lot B minimum lot width. Tax
5 parcel: Section 108.4. Block 7. Lot
6 14. Any interested parties, either for
7 or against this application will have
8 the opportunity to be heard at this
9 time. Lenny Conn, Chairman, Town of
10 Marlborough Zoning Board of Appeals.
11 Thank you.

12 MS. FLYNN: Can I go first?

13 CHAIRMAN CONN: Yes.

14 MS. FLYNN: Do you have the other
15 green ones as well?

16 MR. MILLEN: No. I am not certain
17 there were other green ones as well.

18 MS. FLYNN: You have to send them
19 out certified return receipt.

20 MR. MILLEN: Right.

21 MS. FLYNN: So, you should have
22 the light green ones.

23 MR. MILLEN: The little green
24 paper ones you mean?

25 MS. FLYNN: Yes. And this is when

1 MICHAEL DIVIESTI- PUBLIC HEARING

2 they mailed them back. Some of these
3 are stamped and some of these aren't
4 stamped.

5 MR. MILLEN: So, those are all of
6 the ones that came back in the mail.

7 MS. FLYNN: Okay. So, I have that
8 33 were supposed to go out, and this is
9 only 22.

10 MR. MILLEN: Okay, I'm sorry. I
11 don't know.

12 MS. FLYNN: I am just letting you
13 know.

14 MR. MILLEN: I know we mailed them
15 all out. I'm not certain.

16 MS. FLYNN: I would need how many
17 you mailed out. So I would need the
18 light green ones as well.

19 MR. MILLEN: If you gave us --
20 we'll have to bring those back. But if
21 you gave us 33, then we mailed out 33.

22 MS. FLYNN: That is for you to
23 accept or not to accept, I don't know.

24 MR. SALINOVICH: I don't have a
25 problem with it.

1 MICHAEL DIVIESTI- PUBLIC HEARING

2 CHAIRMAN CONN: Everybody all
3 right with it?

4 MR. MEKEEL: Yes.

5 MR. BARTOLOTTI: Yes.

6 MR. NIKOLA: Yes.

7 CHAIRMAN CONN: We're good.

8 MR. MILLEN: All right.

9 CHAIRMAN CONN: Give us a short
10 story of what you're looking to do,
11 remind us.

12 MR. MILLEN: Okay. Essentially,
13 we were looking to create two lots out
14 of one lot. There was a total of two
15 acres before, and they would be two
16 one-acre lots. There are the variances
17 which we requested. There is really
18 not much else to say, other than there
19 is an easement that runs through the
20 property that we're looking to have
21 vacated, because the -- it's causing
22 quite a bit of, I guess, loss of
23 privacy and access by having it fall
24 through those two lots now. And
25 they're certainly easily to have access

1 MICHAEL DIVIESTI- PUBLIC HEARING
2 from Diviesti Drive to service that
3 lot.

4 CHAIRMAN CONN: Any questions?

5 MR. MEKEEL: I do not.

6 MR. NIKOLA: No questions.

7 MR. BARTOLOTTI: No.

8 MR. SALINOVICH: No.

9 CHAIRMAN CONN: Open the public
10 hearing to anybody that wants comment.

11 (No audible response.)

12 CHAIRMAN CONN: Any discussions?

13 MR. MEKEEL: No.

14 MR. BARTOLOTTI: No.

15 MR. NIKOLA: No.

16 MR. SALINOVICH: No.

17 MR. MEKEEL: I'll make a motion
18 that we close the public hearing.

19 MR. SALINOVICH: Second.

20 CHAIRMAN CONN: All in favor?

21 MR. MEKEEL: Aye.

22 MR. BARTOLOTTI: Aye.

23 MR. NIKOLA: Aye.

24 MR. SALINOVICH: Aye.

25 CHAIRMAN CONN: Public hearing now

1 MICHAEL DIVIESTI- PUBLIC HEARING
2 closed.

3 MR. SALINOVICH: Where did we say
4 was the front yard; Diviesti Drive?

5 MR. MEKEEL: Yes.

6 CHAIRMAN CONN: Good?

7 MR. BARTOLOTTI: I am good.

8 MR. NIKOLA: I'm good.

9 MR. MEKEEL: I'm good.

10 MR. SALINOVICH: Good.

11 CHAIRMAN CONN: Somebody want to
12 make a motion to approve the variances?

13 MR. SALINOVICH: I make a motion
14 to approve the variances.

15 MR. BARTOLOTTI: I second.

16 CHAIRMAN CONN: All in favor?

17 MR. MEKEEL: Aye.

18 MR. BARTOLOTTI: Aye.

19 MR. NIKOLA: Aye.

20 MR. SALINOVICH: Aye.

21 CHAIRMAN CONN: Aye.

22 MS. FLYNN: So, are the variances
23 correct that are on that letter?

24 CHAIRMAN CONN: There is a 35-feet
25 front yard setback required, 21.6 feet

1 MICHAEL DIVIESTI- PUBLIC HEARING
2 is provided, which leaves 13.4-feet for
3 the variances. And the rear is short
4 by 6.3-feet, 35 feet is required, and
5 34.6 is provided. The Board has agreed
6 to approve both variances.

7 MS. FLYNN: Okay, thank you.

11 CHAIRMAN CONN: Yes.

12 MR. MILLEN: It would be the next
13 planning board meeting?

14 CHAIRMAN CONN: Yes.

15 MR. MILLEN: All right. Other
16 than that, we're finished?

17 CHAIRMAN CONN: Yes.

18 MR. NIKOLA: With us, at least.

19 MR. MILLEN: Thank you so much,
20 appreciate your time.

21 (Whereupon, at 6:07 P.M., the
22 Hearing was concluded.)

23

24 o o o o

25

LISA MARIE ROSSO - (845) 674-3937

1 MICHAEL DIVIESTI- PUBLIC HEARING

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK))
5 COUNTY OF ULSTER) : SS..:
)

6

7 I, LISA M. ROSSO, a Notary Public for
8 and within the State of New York, do hereby
9 certify:

10 That I was authorized to and did
11 stenographically report the foregoing
12 proceedings, and that the transcript is a
13 true record.

14 I further certify that I am not related
15 to any of the parties to this action by
16 blood or by marriage and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 14th day of May 2024.

20

21

22

23 LISA M. ROSSO

24

25

1 MICHAEL DIVIESTI- PUBLIC HEARING

2 STATE OF NEW YORK : COUNTY OF ULSTER

3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4 In the Matter of

5 JOHN MAZZA - CONTINUED WORKSHOP

6 2 Dragotta Road
7 Marlboro, New York 12542
8 SBL #108.4-6-5.1,5.2

-----X

9 DATE: May 9, 2024

10 TIME: 6:07 P.M.

11 PLACE: Town of Marlborough
12 Town Hall
13 21 Milton Turnpike
 Milton, New York 12547

14 BOARD MEMBERS:

15 LENNY CONN, CHAIRMAN
16 JEFF MEKEEL
17 GEORGE SALINOVICH
 ANDREW NIKOLA
 LARRY BARTOLOTTI

18 ALSO PRESENT:

19 CARMEN MESSINA
20 JOHN MAZZA
21 JEN FLYNN, Zoning Board
 Secretary

22

23 -----X
24 LISA MARIE ROSSO
25 140 Mahoney Road
 Milton, New York 12547
 (845) 674-3937

LISA MARIE ROSSO - (845) 674-3937

1 JOHN MAZZA - WORKSHOP

2 CHAIRMAN CONN: Now we still have
3 a continuing workshop for John Mazza.
4 Any update from the Town?

5 MR. MESSINA: For the record, my
6 name is Carmen Messina. I'm the
7 surveyor for the project. This is John
8 Mazza. He is the owner and applicant.
9 He has been working with Scott Corcoran
10 about the -- to resolve that problem
11 with the garage, and he can update you
12 on that.

13 MR. MAZZA: The Town offered an
14 agreement. I took it to counsel just
15 for a look, made a couple of little
16 minor adjustments and brought it back
17 to the supervisor earlier this week.
18 He read it over and felt that it was
19 good, but he needed to take it to the
20 Town for their concurrence. But he
21 felt good about it. I have a copy --
22 if you would like a copy of the --
23 preliminary copy, but it's not a signed
24 copy.

25 MS. FLYNN: I have a copy of the

1 JOHN MAZZA - WORKSHOP

2 preliminary.

3 CHAIRMAN CONN: We can look at it,
4 but there is not much we can do without
5 everyone signing off on it.

6 MR. SALINOVICH: Just keeps us up
7 to date.

8 CHAIRMAN CONN: What did they --
9 what were they talking about? What did
10 you agree to?

11 MR. MAZZA: Basically, that I
12 would maintain the building if it was
13 in default or in some disrepair, that I
14 would make the repair within a certain
15 period of time. I have permission to
16 actually work on the building from the
17 Town's space because it's technically
18 on an easement, and they agreed that it
19 could remain in perpetuity as long as I
20 maintained it where it's safe, and --

21 MR. BARTOLOTTI: You're
22 responsible?

23 MR. MAZZA: I'm responsible for
24 it. I hold harmless the Town, yes.

25 MR. BARTOLOTTI: Okay.

1 JOHN MAZZA - WORKSHOP

2 CHAIRMAN CONN: So they're saying,
3 even though it expands past the
4 property line or highway boundary,
5 you're responsible for the entire
6 structure?

7 MR. MAZZA: I'm responsible for it
8 regardless, but yes.

9 MR. MESSINA: I would think that
10 they were concerned about people
11 running into the garage. It was beyond
12 the highway boundary. And so he was
13 holding the Town harmless if that
14 happened; he would be the one
15 responsible for that.

16 MR. MEKEEL: And Mr. Corcoran did
17 agree to this verbally?

18 MR. MAZZA: We shook hands on it,
19 he said it looks good, I don't see any
20 problem with it. He said you have to
21 bring it to the Town officially, and
22 that's why I left it with him. That
23 was Wednesday.

24 MR. MEKEEL: When will they bring
25 it in front of the Town?

1 JOHN MAZZA - WORKSHOP

2 MR. MAZZA: Monday.

3 MR. MEKEEL: Monday's meeting?

4 MR. MAZZA: Yes. I believe it's

5 this next Monday; right?

6 MR. MESSINA: I don't know.

7 MR. MAZZA: He mentioned at

8 Monday's meeting so I just took it for

9 that.

10 MR. MEKEEL: Jen, when do they do

11 their meetings?

12 MS. FLYNN: The 2nd and the 4th.

13 The planning is the 1st and the 3rd so

14 they do have a meeting this Monday.

15 MR. MEKEEL: Okay.

16 MS. FLYNN: I don't know if the

17 agenda is out yet. I don't know if

18 he's on that agenda. I didn't see it

19 on the website earlier today.

20 MR. MEKEEL: Okay.

21 MR. MESSINA: Just to clarify, the

22 Town had drafted the original agreement

23 what they wanted and John Mazza, he

24 looked at it and he wanted to make some

25 corrections and he did and the

1 JOHN MAZZA - WORKSHOP

2 supervisor --

3 MR. MAZZA: He read it in full and
4 he said, yeah, I see what you're
5 saying, we just cleared a couple of
6 points up.

7 MR. MEKEEL: Off the record.

8 (Whereupon, an off-the-record
9 discussion was held.)

10 CHAIRMAN CONN: I want to get some
11 clarification. How do you grant a
12 variance when it's over the property
13 line?

14 MR. SALINOVICH: I know.

15 CHAIRMAN CONN: There is zero
16 variance, but now we're talking about
17 negative variance.

18 MR. BARTOLOTTI: Is this something
19 that we even get involved in? Because
20 this is something like --

21 MR. SALINOVICH: Legal?

22 CHAIRMAN CONN: That is what I
23 want to talk about Scott and the Town
24 attorney.

25 MR. BARTOLOTTI: The Town

1 JOHN MAZZA - WORKSHOP

2 attorney.

3 CHAIRMAN CONN: Is this something
4 that needs a variance?

5 MR. NIKOLA: -- a variance at all,
6 because it's Town property.

7 MR. BARTOLOTTI: Wouldn't it
8 almost have to be the Town would need
9 to give them that piece of property?
10 You dealt with this more than we have.

11 MR. MESSINA: When I found out
12 about this problem, I went to them and
13 I said, because I worked for the
14 Department of Transportation, and we
15 had people in the right-a-way mapping
16 division and we determined highway
17 boundaries, and when we found people's
18 buildings, porches over the line, we
19 had two choices. We would either have
20 to take it from them, pay them, or what
21 we normally did was we would quit
22 claim, in other words, sell them that
23 portion that their building was over
24 the line, and that way it was beyond
25 his property, and it wouldn't be -- and

1 JOHN MAZZA - WORKSHOP

2 then it would be --

3 MR. BARTOLOTTI: Then we can give
4 him a variance for six inches. It's
5 cleaner that way.

6 MR. MESSINA: The Town chose to go
7 this way with it, not wanting the
8 liability, and they divest themselves
9 of the liability.

10 MR. BARTOLOTTI: It's less of a
11 liability to do it the other way.

12 CHAIRMAN CONN: I just want to get
13 some clarification from Tommy or our
14 Town attorney.

15 MR. MAZZA: I believe the Town
16 attorney is who drafted the agreement.

17 MR. MESSINA: But he is saying he
18 doesn't know how he's going to --

19 MR. BARTOLOTTI: Yeah, how we're
20 going to grant a variance onto someone
21 else's property?

22 MR. MAZZA: I understand.

23 CHAIRMAN CONN: And it's not just
24 you. It's any other case that may come
25 before us where this becomes a

1 JOHN MAZZA - WORKSHOP

2 precedent because there have been cases
3 that several of us have been involved
4 in where somebody built a deck and
5 built it over on the neighbor's
6 property, and then they want to
7 subdivide the property or sell it, and
8 we actually made them take that portion
9 of the deck down to be able to give
10 them a variance for the property line.

11 MR. BARTOLOTTI: This will avoid a
12 problem for you ten years from now if
13 you want to sell the place or do
14 something, you know.

15 CHAIRMAN CONN: Was that garage
16 there before the road?

17 MR. MAZZA: Yes.

18 MR. SALINOVICH: So it's the
19 Town's fault your property is on
20 theirs.

21 MR. MESSINA: I have the -- the
22 original building was there prior to
23 the road. I have the map that shows
24 the dedication from Mr. Dragotta to the
25 Town, 1962, and it shows that the

1 JOHN MAZZA - WORKSHOP

2 building --

3 CHAIRMAN CONN: When I asked the
4 question a few weeks ago, was it the
5 chicken or the egg, and nobody knew
6 then, you know what happened first.

7 Was it the road, was it the building,
8 was it the boundary.

9 MR. MESSINA: I think I missed
10 that meeting.

11 MR. SALINOVICH: This was just a
12 farm road back then.

13 MR. MESSINA: Yeah, I don't know
14 if it was even anything, but when they
15 started subdividing, Dragotta --

16 MR. MEKEEL: Is this a turkey
17 coop?

18 MR. MAZZA: It's my house.

19 MR. SALINOVICH: Is it gone?

20 MR. MAZZA: Where I live right now
21 was the slaughter house.

22 MR. MEKEEL: We're up on the road.

23 MR. SALINOVICH: We're talking
24 back further.

25 MR. MAZZA: Oh, that is no longer

1 JOHN MAZZA - WORKSHOP

2 there.

3 MR. MESSINA: So, we didn't have
4 any idea that this would be a problem
5 because they accepted the road that
6 way, we had done subdivisions to this
7 piece of property and it shows -- the
8 map shows it over the line.

9 CHAIRMAN CONN: Scott has seen
10 this and the attorneys have seen this.

11 MR. MESSINA: Well, I don't know.
12 Obviously, they seen our map and we --
13 I think we explained to them that it
14 had been there when they accepted the
15 road, the deeds for that road that was
16 given to the Town state that. In fact,
17 there was a big -- you see there was a
18 house, and they made a provision when
19 that house was demolished and the road
20 continues straight and that
21 right-of-way around it would be
22 eliminated.

23 CHAIRMAN CONN: I need more
24 clarification on -- to save you
25 problems down the road, to save us

1 JOHN MAZZA - WORKSHOP

2 problems down the road, with precedent
3 or things like that, I just want to be
4 clear on how we're doing this.

5 MR. MESSINA: This has been -- we
6 need your guidance also on other
7 matters, and I could bring them up. We
8 have another project there before the
9 planning board that has the same
10 situation on the corner lot, and we
11 went there initially --

12 MR. MEKEEL: Is this off the
13 record, this part of it?

14 MR. MESSINA: It could be.

15 MR. MEKEEL: Yes, off the record.

16 (Whereupon, an off-the-record
17 discussion was held.)

18 CHAIRMAN CONN: We're going to
19 agree to keep the Mazza workshop open
20 for another month and get some final --
21 some clarification from the Town on the
22 letter and agreement that is pending.

23 MR. MAZZA: If everybody says that
24 the agreement is okay, are you then
25 okay to grant variances and do what we

1 JOHN MAZZA - WORKSHOP

2 need to do? Because the Town attorney
3 drafted that agreement, so I believe he
4 knows the levity of what he has done
5 because he did it per meeting with a
6 number of people, the road
7 superintendent, you know, the super of
8 the -- so a lot of people were involved
9 already.

10 CHAIRMAN CONN: I was involved in
11 that meeting, but the other variances
12 that your application had wasn't part
13 of that meeting or discussed. It was
14 just the garage exceeding the boundary.

15 MR. MAZZA: Okay.

16 MR. MEKEEL: Right.

17 CHAIRMAN CONN: So, the other
18 things were left up to us to decide.
19 This was more of a -- much more of a
20 legal issue then we've ever been
21 involved in, and that is why all of
22 those other people --

23 MR. MAZZA: I didn't realize that.
24 Because I thought the initial piece
25 that Tom had brought for me was about

1 JOHN MAZZA - WORKSHOP
2 all of the variances. And at that
3 meeting was when it was questioned that
4 the question garage is into the
5 easement, so I thought that was
6 understood, because I thought that was
7 the initial request. I didn't know,
8 now I do, that there is more to that.

9 CHAIRMAN CONN: At the first
10 meeting where Carmen represented you,
11 we didn't get into your initial
12 variances, not that they're excessive
13 or something hasn't been done like that
14 before that we've looked at, but we
15 never even addressed it because the
16 garage took a much higher precedence,
17 and we couldn't move any further and
18 weren't comfortable moving any further
19 until we got clarification on what the
20 Town and you were going do to do with
21 the garage and boundary line.

22 MR. MEKEEL: Correct.

23 MR. MAZZA: If you are checking
24 with counsel or Town or however it
25 goes, and it is suggested that perhaps

1 JOHN MAZZA - WORKSHOP
2 that it either a lot line change or
3 quit deed where the property is no
4 longer a problem, like, I am for that.
5 I would rather just see that it be
6 clean and nobody ever worry about it
7 again. That is probably the smart way
8 out. I don't know if that is. I'm a
9 layperson. I don't know what those
10 legalities are.

11 CHAIRMAN CONN: For myself, and I
12 think the rest of the Board, I won't
13 speak for them, but I think I know
14 where they stand, we just want final
15 written clarification on that who is
16 responsible, who is liable, where does
17 it begin and end, that is it.

18 MR. MAZZA: Okay, appreciate it.

19 MR. MESSINA: Appreciate your
20 help, and we will be in touch. We will
21 try to prevail.

22 CHAIRMAN CONN: Thank you.
23 Anything else?

24 MS. FLYNN: Yes, there is
25 something else. For the board --

1 JOHN MAZZA - WORKSHOP

2 CHAIRMAN CONN: You don't need
3 Carmen; right?

4 MS. FLYNN: No.

5 MR. MEKEEL: Let's finish up.

6 MS. FLYNN: Oh, I'm sorry.

7 CHAIRMAN CONN: Let's close the
8 meeting.

9 MR. MEKEEL: I make a motion that
10 we close the meeting.

11 MR. BARTOLOTTI: Second.

12 CHAIRMAN CONN: All in favor?

13 MR. MEKEEL: Aye.

14 MR. BARTOLOTTI: Aye.

15 MR. NIKOLA: Aye.

16 MR. SALINOVICH: Aye.

17 CHAIRMAN CONN: Aye.

18 (Whereupon, at 6:44 P.M., the
19 Hearing was concluded.)

20

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22

23

24

25

1 JOHN MAZZA - WORKSHOP

2 C E R T I F I C A T E

3

4 STATE OF NEW YORK))
5 COUNTY OF ULSTER) : SS.:
)

6

7 I, LISA M. ROSSO, a Notary Public for
8 and within the State of New York, do hereby
9 certify:

10 That I was authorized to and did
11 stenographically report the foregoing
12 proceedings, and that the transcript is a
13 true record.

14 I further certify that I am not related
15 to any of the parties to this action by
16 blood or by marriage and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand this 14th day of May 2024.

20

21

22 _____
23 LISA M. ROSSO

24

25